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9/26/03

Confirmation No.: 1622  
Due Date: September 6, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James Kelly Fox et al. Examiner: Eric F. Winakur  
Serial No.: 10/034,139 Group Art Unit: 3736  
Filed: December 27, 2001 Docket: G&C 130.40-US-01  
Title: SYSTEM FOR MONITORING PHYSIOLOGICAL CHARACTERISTICS

**CERTIFICATE OF MAILING OR TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 5, 2003.

By:   
Name: William J. Wood

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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SEP 10 2003  
TECHNOLOGY CENTER R3700

Dear Sir:

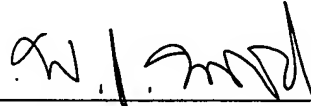
We are transmitting herewith the attached:

- ☒ Transmittal sheet, in duplicate, containing a Certificate of Mailing under 37 CFR 1.8.
- ☒ Supplemental Information Disclosure Statement and Form PTO-1449.
- ☒ Cited References and an English translation of the Abstract for the cited German Patent No. DE 101 08 862 A1.
- ☒ Copy of International Search Report for International Application No. PCT/US02/40378.
- ☒ Return postcard.

Please consider this a **PETITION FOR EXTENSION OF TIME** for a sufficient number of months to enter these papers, if appropriate.

Please charge all fees to Deposit Account No. 50-0494 of Gates & Cooper LLP. A duplicate of this paper is enclosed.

**GATES & COOPER LLP**  
Howard Hughes Center  
6701 Center Drive West, Suite 1050  
Los Angeles, CA 90045  
(310) 641-8797

By:   
Name: William J. Wood  
Reg. No.: 42,236  
WJW/dr

(PTO TRANSMITTAL - GENERAL)



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SUPPLEMENTAL INFORMATION DISCLOSURE

STATEMENT(37 C.F.R. §1.97(b)/(c))

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 2213-1450

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TECHNOLOGY CENTER

Dear Sir:

With regard to the above-identified application, the items of information listed on the enclosed Form 1449 are brought to the attention of the Examiner. Included are references that were recently cited in an International Search Report.

This statement should be considered because it is submitted prior to a first Office Action on the merits, and also less than three months after the mailing date of a Communication from a foreign patent office in which the aforementioned items of information were cited, but before the mailing date of either a final action under 37 C.F.R. § 1.113, or a Notice of Allowance under 37 C.F.R. § 1.311. No fee is due as this statement is submitted as certified below under 37 C.F.R. §1.97(e)(1) or (2) by the undersigned.

Certification Under 37 C.F.R. §1.97(e)

In accordance with 37 C.F.R. §1.97(c) or §1.97(d), the undersigned hereby certifies that this statement is submitted wherein each item of information listed on the enclosed Form 1449 was first

cited in a communication from a foreign patent office in a counterpart foreign application within three months of filing this statement (certification under 37 C.F.R. §1.97(e)(1)).

In accordance with 37 C.F.R. §1.98(a)(2), a copy of each document or other information listed on the enclosed Form 1449 is provided. The documents or other information listed on the enclosed Form 1449 include: (1) Four U.S. patent documents; (2) a German language patent that was cited in a communication (International Search Report) from a foreign patent office in a counterpart foreign application; (2) an English translation of the abstract from the German language patent; and (3) an English-language version of the search report which indicates the degree of relevance found by the foreign office.

In discussing the requirement for a concise explanation foreign language documents, M.P.E.P. 609 A(3), notes “[s]ubmission of an English language abstract of a reference may fulfill the requirement for a concise explanation”. Because an abstract in an international patent application is typically designed to provide a concise explanation of the subject matter of the invention, Applicants’ attorney respectfully asserts that the English translation of the abstract from the German language patent that is submitted herewith meets this requirement. In addition, M.P.E.P. 609 A(3), further notes that “[w]here the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation can be satisfied by submitting an English-language version of the search report which indicates the degree of relevance found by the foreign office.” As noted above, a search report meeting these criteria is also submitted herewith. For these reasons, Applicants’ attorney respectfully asserts that the submission of documents and other information listed on the enclosed Form 1449 meet Applicants’ duty of disclosure under 37 C.F.R. 1.56 for the submitted documents.

No representation is made that a reference is “prior art” within the meaning of 35 U.S.C. §§ 102 and 103 and Applicants reserve the right, pursuant to 37 C.F.R. § 1.131 or otherwise, to establish that the reference(s) are not “prior art”. Moreover, Applicants do not represent that a reference has been thoroughly reviewed or that any relevance of any portion of a reference is intended.

Consideration of the items listed is respectfully requested. Pursuant to the provisions of M.P.E.P. 609, it is requested that the Examiner return a copy of the attached Form 1449, marked as being considered and initialed by the Examiner, to the undersigned with the next official communication.

Please direct any response or inquiry to the below-signed attorney at (310) 641-8797.

Respectfully submitted,

GATES & COOPER LLP  
Attorneys for Applicant(s)

Howard Hughes Center  
6701 Center Drive West, Suite 1050  
Los Angeles, California 90045  
(310) 641-8797

Date: September 5, 2003

By: 

William J. Wood

Reg. No.: 42,236

WJW/dr

Form 1449\*

INFORMATION DISCLOSURE STATEMENT  
FOR A PATENT APPLICATION

Docket Number: G&amp;C 130.40-US-01

Application Number: 10/034,139

Applicant: James Kelly Fox et al.

Filing Date: December 27, 2001

Group Art Unit: 3736

SEP 08 2003

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	2001/0011224 A1	08/02/01	Brown			
	4,731,726	03/15/88	Allen, III			
	5,660,163	08/26/97	Schulman et al.			
	6,175,752	01/16/01	Say et al.			

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## FOREIGN PATENTS

	DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
	DE 101 08 862 A1	02/15/01	Germany (with English translation of the Abstract)				

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form for next communication to the Applicant.